

**THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH**

WRIT PETITION No.10315 of 2007

Date 3-7-2007

Between:

B. Suresh Babu

.....PETITIONER.

AND

**State of A.P. rep. by its
Principal Secretary to Government,
Industries and Commerce department,
Hyderabad & others.**

.....RESPONDENTS

**THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH**

WRIT PETITION NO.10315 of 2007

ORDER: (per Smt. T. Meena Kumari,J)

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This writ petition is directed against the order passed by the Andhra Pradesh Administrative Tribunal, Hyderabad in O.A. No. 2564 of 2007, dated 3.5.2007.

The brief facts of the case are that the case of the petitioner is under consideration for promotion to the post of Additional Director of Industries. Apprehending that the authorities are denying him promotion on the ground of pendency of departmental proceedings in respect of certain imputations of mis-conduct, the petitioner earlier filed O.A. No. 7389 of 2006 before the Tribunal. In that O.A., he sought a direction to the respondents to consider his case for promotion to the post of Additional Director of Industries without reference to the two charge memos dated 19.7.004 and 1.3.2005. The learned Tribunal while admitting the said O.A. passed interim orders directing the respondent to consider the case of the applicant for promotion without taking into account the departmental proceedings pending against the petitioner, if he otherwise comes within the zone of consideration and eligible for promotion, subject to the final result of the said O.A. Despite this direction of the Tribunal, the authorities promoted one

R. Madhusudhana Rao, junior to the

petitioner and the petitioner having come to know that his case was deferred by the D.P.C. on the ground of pendency of Departmental proceedings, filed O.A. No. 2564 of 2007 before the Tribunal challenging the Government orders in G.O. Ms. No. 95, dated 30.4.2007 including U.O. note dated 28.4.2007. The tribunal while admitting the O.A. on 3.5.2007,

declined to grant the interim relief on the ground that D.P.C. having considered the case of the petitioner for promotion in pursuance of the order passed by the Tribunal on 25.1.2007, deferred his promotion. Aggrieved by the said order, petitioner filed the present writ petition.

This Court while ordering notice before admission on 4.6.2007, suspended G.O. Ms. No. 95, dated 30.4.2007, in so far as the case of the petitioner is concerned.

Learned counsel for the petitioner would contend that despite two interim orders passed by this Court and the Tribunal to consider the case of the petitioner for promotion, the respondents are not considering his case for promotion. He would further contend that pursuant to the orders passed by the Tribunal in O.A. No. 7389 of 2006, dated 25.1.2007, though the D.P.C. has recommended that the name of the petitioner be included in the panel of Joint Director of Industries for the panel year 2006-07, but however, directed that his actual promotion order be deferred in terms of G.O. Ms. No. 424 and G.O. Ms. 257, dated 25.4.1976 and 10.6.1999; that the Industries and Commerce Department to inform the rule position by way of filing counter affidavit for vacation of the interim orders/disposal of O.A. Learned counsel while drawing our attention to the said recommendation of D.P.C, would contend that the D.P.C. ought not to have made such a recommendation since the matter is pending before the Tribunal.

Admittedly, the D.P.C. while recommending the case of the petitioner for promotion ought not to have made such a recommendation to the department. Further, the pendency of disciplinary proceedings is not a bar for considering the case of the petitioner for promotion.

Taking into consideration the facts and circumstances of the case and in the interest of justice, it would suffice if a direction is issued to the Tribunal to dispose of the main O.A. itself.

Accordingly, this writ petition is disposed of with a direction to the Tribunal to dispose of the main O.A., namely, O.A. No.2564 of 2007 itself,

as expeditiously as possible, preferably, within a period of two weeks from the date of receipt of a copy of this order. Till the disposal of the O.A., the interim order granted by this Court on 4.6.2007 shall continue. We, however, make it clear that any promotion made would be subject to the result of the O.A.

The writ petition is accordingly disposed of. No costs.

T. MEENA KUMARI,J

DATE: 3rd July, 2007

G. CHANDRAIAH,J

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